



**Date:** Wednesday, December 21, 2022  
**Time:** 6:00 PM  
**Location:** Hybrid - In-Person: Hearing Room 1st Floor, 200 West Oak Street, Fort Collins or Virtual, Zoom Link: [https://larimer-org.zoom.us/webinar/register/WN\\_OnlygYqxSd6yl\\_IYgDj8BA](https://larimer-org.zoom.us/webinar/register/WN_OnlygYqxSd6yl_IYgDj8BA)

## PLANNING COMMISSION MEETING MINUTES

The Larimer County Planning Commission met in a session on Wednesday, December 21, 2022, at 6:00 p.m. in the Hearing Room as well as virtual video. Commissioners John Barnett, Gary Green, Bob Choate, and Conor Duffy attended virtually. Commissioners Anne Best Johnson, Jordana Barrack, Patrick Rowe, and Jon Slutsky physically attended with Commissioner Anne Best Johnson presiding as Chair. The Larimer County staff that virtually attended were Frank Haug, Assistant County Attorney II; Tina Kurtz, Environmental Coordinator Specialist; Steven Rothwell, Civil Engineer II, and Caryn Nezat, Civil Engineer II. The Larimer County staff that physically attended were Lesli Ellis, Community Development Director; Matt Lafferty, Principal Planner; Michael Whitley, Senior Planner; Alyssa Martin, Planner I, Laura Culleton, Planner I; Lea Schneider, Environmental Health Planner and Christina Scrutchins, Recording Secretary.

### COMMENTS BY THE PUBLIC REGARDING THE COUNTY LAND USE CODE OR REGARDING OTHER RELEVANT LAND USE MATTERS NOT ON THE AGENDA OR FUTURE PROPOSALS

None.

### APPROVAL OF THE MINUTES FROM THE NOVEMBER 16, 2022, PLANNING COMMISSION HEARING

*MOTION by Commissioner Choate to approve the minutes.*

*Commissioner Barnett seconded the motion.*

*This received unanimous voice approval.*

*Motion passed 8-0*

### AMMENDMENTS TO THE AGENDA

*MOTION by Commissioner Rowe to arrange the agenda as followed:*

- A. Call to Order
- B. Pledge of Allegiance
- C. Public Comment on the County Land Use Code or Regarding Relevant Land Use Matters not on the Agenda or Future Proposals
- D. Approval of Minutes
- E. Amendments to the Agenda
- F. Consent Items
  - 1. \* Upper Thompson Sanitation District Location & Extent, File 22-ZONE3364
  - 2. \* CSU Chiropteran Research Facility Location & Extent, File No. 22-ZONE3380
  - 3. \* Estes Forward Comprehensive Plan, File No. 22-CODE0269
  - 4. \* Amendments to the Larimer County Land Use Code, File No. 22-CODE0270
- G. Reports From Staff
- H. Adjourn

*Commissioner Barrack seconded the motion.*

*This received unanimous voice approval.*

*Motion passed 8-0*

*MOTION by Commissioner Rowe to arrange the agenda as followed:*

- A. Call to Order
- B. Pledge of Allegiance
- C. Public Comment on the County Land Use Code or Regarding Relevant Land Use Matters not on the Agenda or Future Proposals
- D. Approval of Minutes
- E. Amendments to the Agenda
- F. Consent Items
  - 1. \* Estes Forward Comprehensive Plan, File No. 22-CODE0269
  - 2. \* Amendments to the Larimer County Land Use Code, File No. 22-CODE0270
- G. Discussion Items
  - 1. Upper Thompson Sanitation District Location & Extent, File 22-ZONE3364
  - 2. CSU Chiropteran Research Facility Location & Extent, File No. 22-ZONE3380
- H. Reports From Staff
- I. Adjourn

*Commissioner Barrack seconded the motion.*

*This received unanimous voice approval.*

*Motion passed 8-0*

**CONSENT ITEMS**

**ITEM NO .1 – ESTES FORWARD COMPREHENSIVE PLAN, FILE NO. 22-CODE0269**

**MOTION**

*Commissioner Slutsky moved that the Planning Commission adopt the following Resolution:*

*BE IT RESOLVED that the Planning Commission adopt the Estes Forward Comprehensive Plan, File No. 22-CODE0269.*

*Commissioner Barrack seconded the motion.*

**VOTE**

*Commissioner Green, Barrack, Duffy, Slutsky, Choate, Rowe, Barnett, and Chair Best Johnson voted in favor of the motion.*

*Motion passed 8-0*

**ITEM NO. 2 – AMENDMENTS TO THE LARIMER COUNTY LAND USE CODE, FILE NO. 22-CODE0270**

**PLANNING COMMISSION COMMENTS**

None.

**PUBLIC COMMENT**

None.

**MOTION**

*Commissioner Barrack moved that the Planning Commission adopt the following Resolution:*

*BE IT RESOLVED that the Planning Commission approve the Amendments to the Larimer County Land Use Code, File No. 22-CODE0270*

*Commissioner Green seconded the motion.*

**VOTE**

*Commissioner Duffy, Rowe, Choate, Slutsky, Green, Barnett, Barrack, and Chair Best Johnson voted in favor of the motion.*

*Motion passed 8-0*

## **DISCUSSION ITEMS**

### **ITEM NO. 1 – UPPER THOMPSON SANITATION DISTRICT LOCATION & EXTENT, FILE NO. 22-ZONE3364**

Staff gave a presentation regarding the applicants' request for a Location & Extent Review for a Water Reclamation Facility on a 9.01-acre parcel zoned EV RE - Estes Valley Rural Estate, located Southeast Corner of the Intersection of US Highway 34 and Mall Road, Estes Park (no address assigned). The proposed water reclamation facility supplements the existing wastewater treatment facility located southwest of the subject property. According to the applicant's project description, the existing wastewater treatment facility is approaching a 50-year life and has limited ability to achieve compliance with upcoming nutrient, metal, temperature limitations and building regulatory and code requirements without significant modification. The new water reclamation facility will provide improvements and process treatment that meets current codes, safety requirements, and upcoming discharge regulations while also providing space for build-out treatment capacity of the Estes Valley. The proposed water reclamation facility is classified as a major utility in the Land Use Code. A major utility is defined as, "Generating plants, electrical substations, switching buildings, refuse collection, disposal facilities, water reservoirs, water, or wastewater treatment plants." Major utility uses are allowed in the EV CO – Estes Valley Commercial Outlying Commercial and EV I-1 – Estes Valley Restricted Industrial zoning districts with Location & Extent approval. Major utility uses are not allowed in any other zoning district in the Estes Valley Planning Area. Staff closed the presentation with additional comments, review criteria, the summary of the Development Review Teams Findings and Development Services Team Recommendations.

## **APPLICANTS PRESENTATION**

The Upper Thompson Sanitation District has a 2 million gallon per day wastewater treatment facility that's existing that's just to the west of this property. That facility was constructed in the 1970's and is reaching the end of its useful life. They have been working with the district for 15-years to prepare how to achieve compliance with upcoming nutrient regulations, temperature, metal regulations from the Colorado Department of Public Health and Environment. The existing facility meets current codes, but the new facility would need to need to meet new building codes for the county. They recognize and understand they would need to go through a zoning process to get the property rezoned. In 2017 a site alternatives evaluation was completed, that included retrofitting or an expansion at the existing facility. It included another facility to the south of the existing facility and the proposed property that's to the north and to the east. Operating and running a 2 million gallon per day facility and doing a construction improvement project would be a very complicated endeavor, so that site, alternative study looked at the costs and the and the timing and the implementation of that. Ultimately it was decided through that alternative evaluation, to move forward on the proposed property and the district at that time a negotiated with the prior property owner to acquire the proposed property with the goal would move the project forward to get to where we are today. A discharge permit for the treatment facility we would be implementing state of the art technology for treatment as well as advanced treatment and membrane filtration if you get into the technical terms. Due to the property being within the flood plain, a conditional letter of map revision has been completed and have gone through the counties process to get it approved. Applicant closed the presentation with additional comments and wanted to state they are attempting to meet all of the requirements for everyone's needs.

## **PLANNING COMMISSION COMMENTS**

The Planning Commission commented the following:

- If the following condition been a condition of approval for a Location and Extent in the past? The property owner shall apply to rezone the property to EV CO – Estes Valley Outlying Commercial.
- Does the current Estes Valley Comprehensive Plan require the proposed facility to be in compliance with the zoning code and zoning map.
- If other property options were explored as potential options with this application?
- Wanted clarification if the current facility is in the flood plain.
- Clarification if the proposed facility be an addition to the current facility or will it replace the current facility.
- Wanted clarification on the date the existing facility would need to be in compliance with the Colorado Department of Public Health (CDPH) rules and regulations.

The Larimer County Staff stated the following:

- Staff was unaware of set condition but did discuss with the Director and they do not anticipate that there would be issues with the proposed rezoning this is adjacent to other commercial outline.
- The zoning criteria for location and extent is unique to Estes Valley and only certain zoning districts allow Location and Extent. Outside of Estes Valley and the rest of the unincorporated Larimer County, Location and Extents, are not tied to the property zoning and are specific to the use of the property.
- The staff perspective, the proposed property is very close to the existing facility and is a supplement to the existing facility and it had to be either on this partial or very close to the existing facility, because it is a complement to that facility.

The Applicant stated the following:

- The current facility is not locating in the flood plain.
- The proposed facility will replace the current facility and the current building would be repurposed or demolished.
- The facility will always need to be in compliance with the CDPH rules and regulations and currently has a discharge permit from the Health Department. As time goes forward in the state of Colorado, the nutrient regulations, such as phosphorus and nitrogen regulations will be required and as well as an upcoming arsenic regulation and potential temperature regulations by the Health Department.

#### **PUBLIC COMMENT**

Jim Sandford and Andrejka Coklyat

#### **Comments**

- Concerns of raw sewage being released into the river from the existing facility.
- Would like to receive more information regarding the technology of the new facility to prevent released raw sewage.
- Concerns of how long the construction will take.
- Who will be testing the water and how often?
- Will the new facility be monitored by a smart system and will it be under surveillance for safety?

#### **APPLICANTS REBUTTAL**

Applicant stated the following:

- The Upper Thompson Sanitation District has a discharge permit and have been in compliance close to 50-years and are not aware of any permit violations from the facility. Currently there is an outfall to the east of the river and the new facility will continue to discharge east of Mall road.
- The new facility will be a state-of-the-art facility that will be using a membrane filtration system, more removal of any constituents that would be in the wastewater.
- The construction for the new facility is envisioned to take 2-years to complete.
- There will be a super supervisory data, acquisition, and control system to monitor the operation and the facility. There will also be security at the site as well as security cameras.
- They have equipment that monitors, water quality parameters on a regular basis, and is logged into their computer system over time. It is used both for their reporting to the Health Department for regulatory requirements as well as operational control.
- Through the discharge permit with the Health Department, there is a testing protocol for any of the effluent that makes its way to the river and there's different testing protocols depending on the parameter.

#### **PLANNING COMMISSION DISCUSSION**

The Planning Commission discussed the following:

- Clarification regarding the wetlands that will be disturbed due to the new facility.

The Applicant stated the following:

- The proposed property will not be developed on the entire property but will be shifting the buildings to the north due to access road needed for both operations, the wetlands will be impacted. They are looking into working with the County to re-establish the wetlands.

#### **MOTION**

*Commissioner Rowe moved that the Planning Commission adopt the following Resolution:*

*BE IT RESOLVED that the Planning Commission approve the Upper Thompson Sanitation District Location & Extent, File No. 22-ZONE3364, subject to the conditions of approval outlined in the staff report.*

*Commissioner Barnett seconded the motion.*

#### **VOTE**

*Commissioner Barnett, Green, Duffy, Barrack, Slutsky, Rowe, Choate, and Chair Best Johnson voted in favor of the motion.*

*Motion passed 8-0*

## **ITEM NO. 2 – CSU CHIROPTERAN RESEARCH FACILITY LOCATION & EXTENT, FILE NO. 22-ZONE3380**

Staff gave a presentation regarding the applicants' request for a Location and Extent to provide a new approximate 14,000 square foot bat vivarium/research facility. The proposed vivarium will provide a new facility on the CSU Foothills Campus associated with Center for Vector-Borne and Infectious Disease (CVID) for specifically rearing bats to study bat-borne diseases that affect human health. It will contain multiple holding rooms, breeding and maternity area, medical rooms, and office space. Colorado State University's (CSU) Foothills Campus is located immediately east of the northern end of Horsetooth Reservoir and just outside of Fort Collins City limits. A Location and Extent review is being conducted because the proposed request is for a facility for a public university. Location and Extent applications have a 30 day decision deadline after application submittal per state regulation. Based upon the time the application was submitted, the request was required to be heard on the Dec 21 Planning Commission hearing. Staff closed the presentation with additional comments, review criteria, the summary of the Development Review Teams Findings and Development Services Team Recommendations.

### **APPLICANTS PRESENTATION**

None.

### **PLANNING COMMISSION COMMENTS**

The Planning Commission commented the following:

- Wanted clarification if the facility will be replacing an old facility or a new additional building.
- Wanted clarification on how binding the Planning Commission's decision will be and what rules and regulations will they follow.

The applicant stated that the facility will be an addition and not replacing

- The facility will not be replacing an old building and will be a new facility as an addition to CSU.
- CSU and Larimer County currently have a partnership with an agreement to work together regarding unique projects. State Agencies do not have to abide by local rules and regulations, but CSU will have to abide by the state and federal standards.

### **PUBLIC COMMENT**

Joel Strating, Diana Sprawl, David Blackman, Arthur Kip, Andrejka Coklyat, Melissa Rosas, Mickie Nuffer, Richard Wons, Kelly Jimenez, Megan Augustine, Christine Bowman, Jen Strating, Janie Crabtree, Curtis Vernon, Ted Walkup, Jane Muhlenbruch-Yee, Dianna Murphy, Jason Holliman, Janie Wald, and Alan Bork, and Alan Bork.

### **Comments**

- Concerns regarding noise pollution and how the noise will be mitigated.
- Concerns regarding noise has been communicated to CSU but has not been addressed or resolved.
- Dramatically reduce health and quality of life.
- Dramatically reduce resale value.
- The research is needed but concerns regarding what will be studied and the potential risks.
- The current facilities in the summers create a high level of noise.
- Noticing should have been through out Larimer County and even the State of Colorado.
- CSU gave false assurance that all State and Federal laws were going to be kept at the facility.
- Would like confirmation on the difference between a bio safety level 3 lab and a bio safety level 4 lab and if any of the labs exits on the CSU campus.
- Concerns that what will be studied could potentially spread more diseases and problems like it did with the Corona Virus.
- The state of Colorado needs to not waist time on researching bats and be investigating vaccine injuries and disks cost by the vaccine, and investigate ventilator deaths, since hospitals were run like jails.
- Larimer County should place a moratorium on the project until more is known about how the Corona Virus reached the public.
- What will be the distance from the proposed building to the south fence, next to Bella Vera?
- What will be the height of the proposed building and how long will construction take?
- Concerns that the National Institute of Health bribed CSU to have the proposed lab.

- Would like more detailed information from the Larimer County Health Department regarding their review for this project.
- The Location and Extent presentation did not explain the building size, if it will include an easement access, or the impact on the community.
- Concerns about infrastructure and if the city of Fort Collins, emergency services, utility services, and all of Larimer County are prepared for a facility of such size.

#### **APPLICANTS REBUTTAL**

Commissioner Rowe recused himself from Item No. 2 CSU Chiropteran Research Facility Location & Extent, File No. 22-ZONE3380 due to conflict of interest.

Applicants stated the following:

- The distance from the proposed building to the south fence would be around 380-feet.
- The new 14,000 square foot building will be located east of the existing civic facility.
- Not all of the detailed plans are completed but it is going to be part in personal of the infrastructure, it will not add a lot more traffic due to staff already on campus, and the height of the main roof is plan to be at 16-feet tall and the possibility 30-feet to the top of the mechanical forming screen that will be kept on top of the roof, and the existing facility generator will connect to the new facility and has the capacity to handle both facilities.
- The intent is to have the project design completed through the summer of 2023 and the construction would start the summer of 2023 through the fall of 2024.
- The Larimer County Health Department did receive the submittal and they did not have any comments regarding concerns of the Location and Extent.
- The noise concerns are still being reviewed and being working on with the surrounding neighbors since 2018. Spot readings are being completed and CSU will continue to work on resolving the noise concerns. Unfortunately, CSU cannot speak to the new facility due to it not being constructed yet.
- Due to the proposed location already having the Judd Harbor Research complex that has similar research it logically was decided to have the new facility be location in the same area.

#### **RECESS**

Start – 8:11 pm / End – 8:20 pm

#### **PLANNING COMMISSION COMMENTS**

The Planning Commission Commented the following:

- Wanting to know when the Judd Harbor Research complex was originally built?
- Will the new facility be in comparable size to the Judd Harbor Research complex?
- Pertaining to the noise, is the air conditioning requirements of the new facility comparable to the Harper Research Complex.
- Wanting clarification if the new facility will have newer equipment that will make less noise.
- Wanting to know the distance from the proposed property to the closest resident.

The Applicant stated the following:

- The Judd Harbor Research complex is approximately over 100,000 square feet and new facility will be a lot smaller.
- CSU's intent is to be slowly moving over all of rooftop air handling units so they can be decommissioned as and when funds become available to have facilities on the central plants.
- The new facility will have new equipment that will make less noise.
- The closest residence to the proposed property is over 500-feet away.
- Every project that is wanting to be researched at CSU has to go through a risk assessment. CSU takes into account a large variety of different factors, including the agent they want to work with, how they might want to work with it, what animals, and what they might want to do with it. CSU will identify what the risks are, how CSU can mitigate those risks, and are they capable of mitigating those risks and if research could proceed, as well as what laws, guidelines, policies, might specifically apply to the research that our researchers are proposing.

#### **APPLICANTS REBUTTAL**

CSU has over 30 years of experience studying vectors of disease, including bats. The goal of the research is to better understand how viruses, diseases, bacteria, transmit between animals as well as between animals and humans. If we can understand that interface, and how that works that allows us to be better prepared for the next outbreak. The next pandemic to develop antivirals, vaccines, and other therapeutics as well as surveillance methodologies, to better be able to protect the community. CSU has a long-standing relationship with working with the county, especially in regard to mosquito work and also the West Nile viruses. CSU and the County have had a very good back and forth that has helped inform the county, how they protect the environment as well as the public and the health of our community, CSU was chosen for this facility because of the long-standing track record or safe, responsible and secure science and sound science. The facility is designed primarily for breeding purposes, to establish colonies, and to allow CSU to expand the current bat research at CSU to provide animals and tissues to fellow researchers in Colorado, the Western United States, United States, as well as internationally. CSU will be very limited in the diseases that can be studied inside of the facility. That is because of how it is designed, and it is going to be operated. The new facility will not be able to study Merced, SARS-CoV-2 the virus that causes COVID, or Ebola virus that require high containment facilities. CSU does have a high containment facility, such as the westmost regional bio containment facility in the United States, that opened in 2007. CSU's high containment facility is one of 12 laboratories across the country that are used to support outbreak, pandemic, bioterrorism activities, and they were an end result of the anthrax attacks after 9/11. CSU wants to assure the commission as well as the community that CSU takes its responsibility incredibly, seriously.

#### **PLANNING COMMISSION COMMENTS**

The Planning Commission Commented the following:

- Wanting clarification between the CSU new facility and the Wuhan Lab.
- Wanting clarification of the parameters that the Planning Commissioners are restricted to in order make their decision on the proposed Location and Extent.
- Wanting confirmation that a Location and Extent is purely the location and not any site, specific issues, or the function of the facility, just the location of the proposed facility.

The Applicant stated the following:

- CSU cannot speak on behalf of the infrastructure that the Wuhan lab had in place, but they were a high containment laboratory.

Staff stated the following:

- The Planning Commission will determine if the Location and Extent is consistent with the Comprehensive Plan. If the Planning Commission determines the Location and Extent is not consistent with the Comprehensive Plan, then they would need to be able to cite two sections of the Comprehensive Plan that they do not think it is consistent with.
- A Location and Extent is purely the location and not any site, specific issues, or the function of the facility, just the location of the proposed facility. If the Planning Commission denies the Location and Extent, there is appeals process where it would effectively go to the Board of CSU, who could override the vote.

#### **PLANNING COMMISSION DISCUSSION**

The Planning Commission discussed the following:

- The presented Location and Extent complies with the Comprehensive Plan.

#### **MOTION**

*Commissioner Barnett moved that the Planning Commission adopt the following Resolution:*

*BE IT RESOLVED that the Planning Commission approve the CSU Chiropteran Research Facility Location & Extent, File No. 22-ZONE3380, subject to the conditions of approval outlined in the staff report.*

*Commissioner Barrack seconded the motion.*

#### **VOTE**

*Commissioner Barnett, Slutsky, Barrack, Duffy, Choate, Green, and Chair Best Johnson voted in favor of the motion.*

*Motion passed 8-0*

**REPORT FROM STAFF**

There will be no items on the January Agenda, and it may be canceled.

**ADJOURN**

With there being no further business, the hearing adjourned at 8:53 p.m.

These minutes constitute the Resolution of the Larimer County Planning Commission for the recommendations contained herein which are hereby certified to the Larimer County Board of Commissioners.